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TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 704-P-1-USA

In Re Application Of: **Jeffrey Bryson**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/609,231	June 30, 2000	Mark A. Fadok	71850	3625	2817

Title: **COMPUTER AND HUMAN INTERACTIVE SYSTEM AND METHOD FOR NEGOTIATING THE PURCHASE AND SALE OF GOODS AND SERVICES**

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APPLICANT'S REPLY BRIEF

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Dated: **December 17, 2007**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	Jeffrey Bryson	Appeal No.
Application No:	09/609,231	Examiner: Fadok, Mark A.
Filed:	June 30, 2000	Art Unit: 3625
Title:	COMPUTER AND HUMAN INTERACTIVE SYSTEM AND METHOD FOR NEGOTIATING THE PURCHASE AND SALE OF GOODS AND SERVICES	

APPLICANT'S REPLY BRIEF

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Sir:

This Replay Brief is in response to the Examiner's Answer dated October 18, 2007.

THE EXAMINER'S ANSWER IGNORES CLAIM LIMITATIONS

Applicant's *claimed* invention is directed to a computer and human interactive system for negotiating the purchase and sale of goods over a network such as the Internet. As set forth in the only independent Claims 11 and 28, the computer and human interactive system includes **both** primary sellers of goods or services **and** at least one virtual seller of goods or services. As

claimed, the virtual sellers are not merely customer service representatives and not merely ordinary sellers of their own goods or services. Instead, the virtual sellers provide a separate platform for selling the goods or services of the primary seller when the primary seller is incapable of completing a sales transaction such as when the primary seller's employees have gone home for the day. To clarify the distinction between the primary seller and the virtual seller, the independent claims include the express claim language of "a virtual seller of goods or services who is not the primary seller for selling the goods or services of the primary seller, said virtual seller not possessing custody or control of the goods or services of the primary seller but having a database storing product information concerning the goods or services of the primary seller". In other words, the virtual seller provides a platform for selling the goods or services of another company when company representatives are not available. This platform is capable of being used to conduct sales for many companies, and thus capable of performing sales transactions for a multitude of primary sellers.

Meanwhile, the Examiner completely disregards the explicit claim of language that defines the virtual seller. When scouring the prior art, the Examiner contends that the virtual sellers are described in *Rose* (U.S. Patent No. 5,309,513). The Examiner states:

> "Rose teaches assigning ubiquitous agents (virtual agents) to support agents who normally cover incoming calls at an automatic call center (primary sellers) during non-rush times such as holidays, evenings, or weekends (col. 5, lines 10-20)." (Examiner's Answer, pg. 4, para. 3)

However, *Rose* does not teach or describe a virtual seller as claimed by Applicant. First, *Rose* does not describe a seller of any kind. Secondly, *Rose* does not suggest that the "agents" are anything but the employees servicing the needs of the "primary" company's needs.

Rose describes an automated caller distributor (ACD) system in which a computer connects agents located at remote locations through telephone circuits. The persons are connected based upon availability or special skills. During emergencies, the remote agents may be connected for processing the automated caller distributor received calls. This function is described in the paragraph cited by the Examiner:

> "In a further example, during an emergency situation, such as an ice storm, the computer 16 may connect any (or all) of the agents to any of the ACDs receiving calls. In addition, during non-rush times, such as a holiday, evening, or weekend, all of the agents usually associated with a give ACD 12a-c may not be present during these low traffic periods. The ACDs may notify the host computer 16 that a call has arrived, and the host computer 16 can assign an agent 32 a-c to the ACD receiving the call, thus saving the cost of manning a give ACD 12a-c by agents during usually closed periods."

Plainly, *Rose*, and this section cited by the Examiner illustrate that the *Rose*'s automated called distributor system can redistribute calls as circumstances arise. However, there is no suggestion

in this section or anywhere within *Rose*, or anywhere within the prior art for providing a virtual seller which maintains the database of a primary seller for selling the primary seller's goods when the primary seller is not available. This limitation is found in each and every one of the claims, but not suggested in the cited prior art. Therefore, Applicant's claims are believed allowable.

THE EXAMINER'S RESPONSE TO APPLICANT'S ARGUMENTS IS WITHOUT ANY BASIS OR SUPPORT

On pg. 10, para. 2 of the Examiner's Answer, the Examiner argues that *Rose* describes that:

> "the ubiquitous agents do not own the inventory or the right to sell inventory unless the primary seller (call center) decides that the ubiquitous agents will have the opportunity to sell the product by accessing a database of products under control of the data that is distributed to both the call center and the ubiquitous agents..."

This statement is entirely without support.

There is no suggestion in *Rose* that the ubiquitous agents do not own the inventory or right to sell inventory. Plainly, the suggestion is that the ubiquitous agents are employees of the

call center and there is no suggestion that the call center is anything but owned and operated by the company having the need for a call center.

Further, the Examiner's statement that *Rose* suggests that "ubiquitous agents will have the opportunity to sell the product..." illustrates the lengths at which the Examiner has gone in attempting to reject the claims. Nowhere does *Rose* suggest that the ubiquitous agents sell products. In fact, the words "sell" and "product" or any words similar to these words are not found anywhere within *Rose*. Thus, the Examiner's arguments that *Rose* describes ubiquitous agents having the opportunity to sell products is without any basis for support, and the Examiner provides none.

CLAIMS 12 AND 29 INCLUDE ADDITIONAL BASIS FOR PATENTABILITY

Dependent Claims 12 and 29 include additional basis for patentability. Specifically, these claims include the limitation that the selection of the virtual seller is based upon a determination of whether the primary seller has ceased sales operations. On pg. 7 of the Examiner's Answer, the Examiner argues that *Kannan* teaches business rules in deciding whether to apply a live operator and intelligent routing where live operators are associated with calls. In making this assertion, the Examiner cites pg. 5, para. 94 - pg. 10, para. 120. First, business rules in deciding whether to apply a live operator is not the same and does not provide the suggestion for Applicant's claimed limitation that the virtual seller is selected based upon a determination of whether the primary seller has ceased sales operations. Secondly, the Examiner's assertion that

"business rules" are found within **five pages** of *Kannan* provides no specificity as to what the Examiner is referring to. Applicant is unable to glean any suggestion as to what the Examiner is referring to when he states that *Kannan* describes business rules in deciding whether to apply a live operator.

CLAIMS 13 AND 30 PROVIDE ADDITIONAL BASIS FOR PATENTABILITY

Claims 13 and 30 are similar to Claims 12 and 29, but are further narrowed wherein the selection of a virtual seller instead of the primary seller is based upon a determination of whether the primary seller has ceased sales operations for the day in accordance with predetermined periods of the day.

Again, the Examiner argues on pg. 7 of his Answer that *Kannan*'s teaching of business rules in deciding whether to apply a live operator according to the policy of a company an intelligent routing where live operators are associated with calls suggests Applicant's claim limitations. However again, the five pages of *Kannan* cited by the Examiner do not provide any suggestion for the selection of a virtual seller or any other type of seller upon the determination of whether the primary seller has ceased sales operations. To the contrary, *Kannan* suggests that once the primary seller has ceased sales operations, its sales operations have ceased. Thus, there can be no suggestion for continued sales operations by another, and certainly by a virtual seller.

CONCLUSION

The Examiner's rejections of Claims 11 - 20 and 28 - 36 under 35 U.S.C. §103 is improper, and allowance of these claims is requested.

Respectfully submitted,



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CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10) Applicant(s): Jeffrey Bryson				Docket No. 704-P-1-USA
Application No. 09/609,231	Filing Date June 30, 2000	Examiner Mark A. Fadok	Customer No. 71850	Group Art Unit 3625

Invention: **COMPUTER AND HUMAN INTERACTIVE SYSTEM AND METHOD FOR NEGOTIATING THE PURCHASE AND SALE OF GOODS AND SERVICES**

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APPLICANT'S REPLY BRIEF

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